

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

RANDALL BINGHAM

Plaintiff

VS.

JAMES DONALD, *et al.*,

Defendants

NO. 5:08-CV-246 (CAR)

**PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE**

O R D E R

Before the court is defendant Jamie Tillet's MOTION FOR AN ORDER TO PRODUCE PLAINTIFF'S RECORDS. Tab #51. As was discussed in a related order entered this date in this case, plaintiff Bingham has been presented with request to release his medical records to counsel for defendant Tillet to which he has objected. Plaintiff Bingham's objection is based on his conclusion that the request constitutes unauthorized premature discovery and, as such, was made in violation of the undersigned's earlier order proscribing when discovery could commence.

As noted by the undersigned in the initial order regarding discovery, and in the order addressing plaintiff's complaints entered earlier this date, discovery may commence following the filing of an answer or dispositive motion. Notwithstanding the fact that defendant Tillet sent her request to the plaintiff before any such filing had been made, and in light of the fact that such a filing has since been filed in this case, it now appears that defendant Jamie Tillet's MOTION FOR AN ORDER TO PRODUCE PLAINTIFF'S RECORDS should be and is now GRANTED. The rationale for this decision is founded upon efficacy and common sense. Since plaintiff admits receipt of the request, and because a basis for plaintiff's action is the defendants' deliberate indifference to his serious medical and mental health needs, requiring defendant Tillet to resubmit her request would be redundant and unnecessary.

Accordingly, IT IS ORDERED that pursuant to 45 C.F.R. ¶ 164.512 (e)(1)(i) and O.C.G.A. ¶ 24-9-21 *et seq.*, the privilege afforded to the otherwise protected health information of Randall Bingham is hereby waived for the limited purpose of the use of said information in this litigation. This Order encompasses the complete medical and mental health records of Mr. Bingham in the possession of the Georgia Department of Corrections, and that agency is authorized to provide said records to counsel for defendant Tillet in accordance with this order..

IT IS FURTHER ORDERED that all records and testimony related to Mr. Bingham's medical and mental health treatment shall be marked and treated as confidential and shall not be disseminated outside of this litigation.

SO ORDERED this 27th day of APRIL, 2009.



A handwritten signature in black ink, reading "Claude W. Hicks, Jr." in a cursive script.

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE